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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,775	03/06/2002	Geoffrey B. Rhoads	220430US25CONT	1576
22850	7590	08/04/2006	EXAMINER	
C. IRVIN MCCLELLAND OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			VU, VIET DUY	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/090,775

Applicant(s)

RHOADS, GEOFFREY B.

Examiner

Viet Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 June 2006.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7,37,67 and 96-98 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 7,37,67 and 96-98 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/25  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

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**Art Rejections:**

1. The text of 35 U.S.C. 103(a) not cited here can be found in the previous office action.

2. Claims 7, 37, 67 and 96-98 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolff, U.S. pat. No. 5,848,413, and further in view of Carey et al, U.S. pat. No. 3,950,782.

Wolff discloses a system and method for connecting a user to a remote computer over a network comprising:

a) reading a data carrier, e.g., barcode, modulated with an index (see col 4, lines 43-67 and col 7, lines 10-14);

b) accessing a database with the index, the database comprising a plurality of records that link an index to a pointer which identifies a remote computer on the network (col 7, lines 17-21);

c) obtaining a pointer, i.e., URL or IP address, from the database with reference to the index (col 7, lines 21-24);

d) using the pointer to establish communication with the remote computer (see col 6, lines 29-33).

Wolff does not teach encoding the index with an audible signal. The use of audio signal to carry embedded digital data

such as network address is well known in the art as disclosed by Carey (see Carey's abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wolff to encode the index or a network address in an audio signal as opposed to a printed material. This is because it would have enabled performing data retrieval and/or network accessing in an audio-based application.

**Response to Amendment:**

3. Applicant's arguments filed on 6/15/06 with respect to claims 7, 37, 67 and 96-98 are moot in view of new grounds of rejection set forth above.

Applicant states that scope of claims 7, 37 and 67 has now been broaden to merely require encoding an index in an audio signal. Applicant also asserts that Wolff fails to disclose encoding an index within an audio signal.

The examiner submits that Carey is now cited to show such encoding an index or an address within an audio signal as discussed in item 2 above.

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**Conclusion:**

4. Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Vu whose telephone number is 571-272-3977. The examiner can normally be reached on Monday through Friday from 7:00am to 4:00pm. The Group general information number is 571-272-2100. The Group fax number is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached on 571-272-3964.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

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Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



VIET D. VU  
PRIMARY EXAMINER

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7/28/06